

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JORDAN MICHAEL DUNLAP,

Petitioner,

v.

//

CIVIL ACTION NO. 1:13CV209
(Judge Keeley)

R. A. PERDUE, Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 16]

On September 17, 2013, the pro se petitioner, Jordan Michael Dunlap ("Dunlap"), filed a petition pursuant to 28 U.S.C. § 2241. The Court referred this matter to United States Magistrate Judge John S. Kaull for initial screening and a Report and Recommendation ("R&R") in accordance with LR PL P 2. On October 18, 2013, the respondent, R. A. Perdue ("Perdue"), filed a motion to dismiss, or in the alternative, motion for summary judgment. (Dkt. No. 10). Although Magistrate Judge Kaull issued a Roseboro notice to Dunlap four days later, Dunlap filed no response.

On March 27, 2014, Magistrate Judge Kaull issued an R&R, in which he recommended that Purdue's motion be granted and the Dunlap's § 2241 petition be dismissed as moot. (Dkt. No. 16). The magistrate judge determined that Dunlap had not exhausted his administrative remedies, as is required prior to filing a § 2241 petition. Furthermore, the magistrate judge found Dunlap's § 2241 petition mooted by the fact that he had already been granted the relief sought: credit against his federal sentence for time spent in the custody of the State of West Virginia.

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The R&R specifically warned Dunlap that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. The parties did not file any objections.¹ Consequently, finding no clear error, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 16), **GRANTS** Purdue's motion to dismiss, or in the alternative, motion for summary judgment (dkt. no. 10), **DISMISSES AS MOOT** Dunlap's § 2241 petition (dkt. no. 1), and **ORDERS** that this case be **DISMISSED WITH PREJUDICE** and stricken from the Court's active docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: June 6, 2014

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).